

VZCZCXRO7742
PP RUEHMA RUEHPA
DE RUEHUJA #2600/01 3551220
ZNR UUUUU ZZH
P 211220Z DEC 07
FM AMEMBASSY ABUJA
TO RUEHC/SECSTATE WASHDC PRIORITY 1687
INFO RUEHOS/AMCONSUL LAGOS PRIORITY 8438
RUEHZK/ECOWAS COLLECTIVE
RUEATRS/DEPT OF TREASURY WASHDC
RUCPDO/DEPT OF COMMERCE WASHDC
RUEAWJA/DEPT OF JUSTICE WASHDC
RHEBAAA/DEPT OF ENERGY WASHDC
RULSDMK/DEPT OF TRANSPORTATION WASHDC
RUEHRC/DEPT OF AGRICULTURE WASHDC

UNCLAS SECTION 01 OF 05 ABUJA 002600

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SENSITIVE

DEPARTMENT PASS TO USTR-AGAMA, EXIM-JRICHTER, TDA-EEBONG
TREASURY FOR PETERS AND HALL
DOC FOR 3317/ITA/OA/KBURRESS, 3130/USFC/OIO/ANESA/ DHARRIS, AND
USPTO - JKOEPPEN AND PSALMON
DOJ FOR MKOUAME
DOE FOR CGAY AND GPERSON
DOT FOR MARAD

E.O. 12958: N/A
TAGS: [ETRD](#) [ECON](#) [EFIN](#) [EINV](#) [EAID](#) [PGOV](#) [NI](#)
SUBJECT: TIFA COUNCIL- U.S.-NIGERIA

REF: A. ABUJA 2593
 1B. ABUJA 2403
 1C. ABUJA 2178

SENSITIVE BUT UNCLASSIFIED - HANDLE ACCORDINGLY

1. (SBU) Summary. Following the Trade and Investment Framework Agreement (TIFA) Council meeting with the Government of Nigeria (GON), the U.S. and GON agreed on a work plan and joint-communique that paves the way forward for greater dialogue and engagement. Several GON officials expressed interest in discussing a bilateral investment treaty, and advisors from President Yar'adua's office hurriedly requested a sample U.S. BIT before the President's meeting with President Bush in Washington, D.C. The GON expressed strong interest in U.S. investment in infrastructure and other areas, including manufacturing sectors linked to downstream processing of petrochemicals and other products. The GON made no commitment on removing import bans reducing tariffs and the full implementation of the Economic Community of West African States (ECOWAS) Common External Tariff (CET). The GON agreed that, in addition to the annual TIFA council meetings, there should be quarterly consultations to advance the work plan. A team of USG officials also used the opportunity of the TIFA to hold a series of meetings on the important issue of improving Nigeria's protection of intellectual property rights and anti-counterfeit efforts. End Summary.

TIFA COUNCIL AND AGOA WORKSHOP

2. (SBU) On December 11, in Abuja, the fifth TIFA Council meeting and an AGOA workshop took place. The U.S. delegation was led by Florizelle Liser, Assistant United States Trade Representative for Africa and included members from the Departments of State, Commerce, Agriculture, and agencies ranging from the African Development Foundation to USAID, USAID West Africa Trade Hub, and the U.S. PTO. The GON delegation was led by Elizabeth P.B. Emuren, Permanent Secretary (PS) at the Ministry of Commerce and Industry (MCI).

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Although he was the host, MCI Minister Ugwu arrived several hours after the start and promptly left one hour later. Curiously his deputy, Minister of State Ahmed Garba Bichi, who was to chair the

AGOA workshop, did not show up.

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GON DELEGATION

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13. (U) The members of the GON delegation were -- Engineer Charles Ugwu, Minister for MCI, E. B. P. Emuren Permanent Secretary, MCI; Dr. Ochi C. Achinivu, Director of Trade, MCI; Jimmy Olumi, MCI; W. K. Amuga, MCI; B.G. Hamza, MCI; I. C. Ibeh, MCI; Alex Akpakpu, Nigerian Export Processing Zones Authority; Prince Joseph Idiong, Association of Nigerian Exporters; J. H. Badu, Nigerian Export Promotion Council; N. T. Igba, Central Bank of Nigeria; John O. Asein, Nigerian Copyright Commission; Grace O. Adeyemo, Nigerian Customs; B. U. Gimba, Nigerian Customs; M. T. Othman, Nigerian Customs; Gloria Esiaba, Ministry of Health; Fowu Bowade, MCI; Ifeanyi Mbah, MCI; A. A. Adigwe, MCI; I. N. Briggs, MCI; Udu-Ejembi, MCI; and E. E. Kalu, MCI.

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USG/NIGERIA STRATEGIC ECONOMIC PARTNERSHIP

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14. (SBU) In her opening remarks AUSTR Liser stressed that the TIFA Council meeting was an opportunity to explore common objectives, identify challenges, adopt a joint work plan that identifies priority areas for U.S.-Nigerian cooperation, and advance work on the WTO Doha Development Agenda. The TIFA provides a joint mechanism to develop a concrete plan of action for deepening and expanding the \$30 billion trade relationship. The U.S. views Nigeria as a strategic partner, and currently the trade relationship is dominated by Nigerian petroleum and minerals exports. The AUSTR contended that AGOA, coupled with domestic policy reforms, provides an opportunity to expand and diversify the relationship. She noted that there are a number of market access issues that need to be addressed in order to advance the relationship. In particular, Nigeria's import bans need to be addressed in order for Nigeria to

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maintain its current AGOA eligibility status.

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NIGERIA'S PLAN FOR IMPROVED ECONOMIC PERFORMANCE

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15. (SBU) Following opening remarks from AUSTR Liser, Permanent Secretary (PS) Emuren reported that the GON planned to continue

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macroeconomic, institutional and structural reforms, and create an atmosphere of zero tolerance for corruption. PS Emuren stressed that the GON would focus on developing infrastructural facilities to support a manufacturing sector for both domestic and export industries. It would expand free trade and special economic zones with the ultimate goal of Nigeria becoming one of the 20 largest economies in the world by the year 2020.

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AGOA AND BILATERAL TRADE

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16. (SBU) AUSTR Liser highlighted that the \$30 billion in two-way trade between Nigeria and the United States in 2006, was a 16% increase over 2005 and that U.S. total exports to Nigeria was \$2.2 billion in 2006, a 16% increase from 2005. She noted that non-oil imports from Nigeria accounted for only \$1.4 million, but had doubled since last year. She emphasized that the USG wants to work with Nigeria to expand and diversify its non-oil trade, and that USG resources at the West Africa Trade Hub could be utilized.

17. (SBU) The USG underscored several areas of concern -- Nigeria continues a system of high tariffs and import bans, despite Nigeria agreeing to implement the ECOWAS Common External Tariff (CET). The USG contended that these tariffs and non-tariff barriers (NTBs) have a major impact on U.S. agricultural and manufactured product exports to Nigeria.

18. (SBU) In response, Dr. Ochi Achinivu, MCI Director of Trade said Nigeria is committed to working on the issue of the import bans and tariffs. He said that the Manufacturing Association of Nigeria

(MAN) was lobbying the GON to keep the bans and high tariffs to protect Nigeria's infant industries. In addition, MAN is pushing the 5th tariff band of 50 percent in order to protect local industry. Director Achinivu opined that there were other methods to protect these industries through incentive schemes.

¶9. (SBU) He reported that MCI has already notified President Yar'adua of USG concerns. He also expressed concern that the bans and high tariffs were having a negative statistical impact on the Nigerian economy. MCI had recommended to the President and Ministry of Finance that following the WTO regime was the best way forward and that GON is working on resolving these issues.

¶10. (SBU) Several members of the GON asked the status of a Bilateral Investment Treaty (BIT) with Nigeria and Director Achinivu noted that a draft had already been sent to the GON and that GON welcomed discussions on a technical level.

¶11. (SBU) The USDA/FAS representative expressed concern with Nigeria's use of arbitrary reference prices to assess duties on rice as well as Nigeria's use of irregular import valuation measures. According to the WTO, import values should be based on the actual transaction value of the good, not an arbitrary reference price. As a member of the WTO, Nigeria's practices should be in-line with the Customs Valuation Agreement. The Nigerian Customs officials said that a workshop on the Customs Valuation Agreement had been held and they expected implementation of the transaction value method of valuing imports, inline with WTO rules. At the same time, Customs is waiting for passage of a bill that will legislate the change. The USG requested a draft copy.

¶12. (SBU) The USDA representative invited the GON to participate in a trade mission scheduled for 2008 in Accra, where U.S. agribusinesses could meet with the GON and Nigerian companies to identify partners for potential business. The AUSTR offered the services of the Animal, Plant, and Health Inspection (APHIS) expert that was based at the regional trade hub to provide guidance on exporting agricultural products to the U.S. The GON expressed interested in being part of the trade mission and in working with

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the APHIS standards expert.

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TRANSPORTATION/ENERGY/INFRASTRUCTURE

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¶13. (SBU) The AUSTR said she was very aware of the constraints that impacted the ability of all African countries to export their products due to problems with transportation, physical infrastructure and energy. She noted that the new Delta Airlines service between Atlanta and Lagos is a sign of progress and commended Nigeria's privatization of ports and its goal of becoming a maritime hub for West Africa. PS Emuren said infrastructure was the key limiting factor to the success of business in Nigeria. Director Achinivu added that everything made in Nigeria was 45% more expensive because of the electric power and tariff issues.

¶14. (SBU) The GON contended that there are opportunities for U.S. investors to invest in providing infrastructure such as highways, and in petrochemicals and solid minerals sectors. The USG asked for terms and conditions to be declared and the GON indicated readiness to work with the U.S. in analyzing the terms and conditions and identifying impediments to investment.

¶15. (SBU) The GON inquired about technical assistance to assist project finance and the Econ Counselor answered that the U.S. Exim Bank has a proposal to work with USTDA to hold a seminar in Nigeria with bankers to discuss project financing. The USG welcomed Nigerian input on who should be present for such a seminar. Econ Counselor contended that, if the terms and conditions are right, U.S. investors would come to Nigeria and if the MCI wished to pull together key actors on the Nigerian side to look at conditions for investment, the USG would do the same.

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INTELLECTUAL PROPERTY RIGHTS - MORE INPUT NEEDED

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¶16. (SBU) MCI officials contended that a good IPR regulatory framework was in place, however, investment from the film and music industries was not forthcoming. In response AUSTR Liser commented that a major impediment to investment was IPR violations, and that Nigeria is the largest market for pirated products. PS Emuren explained that IPR was a major issue that the GON wanted to improve, and the GON needed assistance on following international standards. PS Emuren also asked for assistance in initiating a copyright registration scheme, and for USG comments to the optical disk registration law passed in Dec. 2006. USTR responded that the USG would provide comments on the law and suggested Nigeria adopt the WTO WIPO International Treaty.

¶17. (SBU) GON officials indicated Nigerian rights holders had complained of IP violations in the United States regarding the pirating of Nigerian movies online and unlawful duplication. USTR responded that the USG welcomed any information that was available about the violations, that the USG does not support piracy and there are methods in place that the rights holders, could use to take down the websites. They lamented that when the movie and music producers pulled out of Nigeria, they left a vacuum, and if they were to come back they could partner with the GON to reduce piracy. USTR contended that the vacuum in the music and movie industry is an issue that would be resolved when the rights holders saw more examples of the GON enforcing IPR rules.

¶18. (SBU) The GON IPR officials complained that the more the GON did to protect IP, the more the U.S. wanted them to do. The GON reported a draft bill from the IP Commission was being put together to help close holes in the current legislation and that public awareness was low. The GON asked for assistance in creating this awareness, and the USG offered to assist.

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TRADE CAPACITY BUILDING - GON WANTS MORE

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¶19. (SBU) The USG outlined current trade capacity building assistance to Nigeria from the following agencies: Export Import Bank (Exim), the Overseas Private Investment Corporation (OPIC), the United States Trade and Development Agency (USTDA), USAID/WA, USAID,

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the African Development Foundation (ADF), and the United States Department of Agriculture (USDA).

¶20. (SBU) The GON listed the following as areas where TCB is needed:
-- Establishing a trade database.
-- Training for staff of the MCI's trade department on the use of statistical software for various analyses.
-- Training on trade negotiations.
-- Training on impact assessments of various trade policies.
-- Equipment for calibration, weights and measures of products such as oil and gold.
-- Internet Access and VSAT link between the Ministry and its state offices.
The USG agreed to review the requests for possible assistance, but made no commitments.

¶21. (SBU) The GON also expressed interested in capacity building opportunities offered by the Trade Hub and USAID, because the GON wanted to increase their value added products. Nigeria's private sector rep was particularly concerned with the phytosanitary issue (SPS) and requested that a TIFA working group identify technical assistance that could be given to Nigeria.

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DOHA

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¶22. (SBU) AUSTR Liser pointed out that the GON's positions on Doha hurt its interests, and asked why the GON continues to support these positions. She questioned the Less Developed Countries (LDCs) position that all LDCs should have duty free and quota free (DFQF) access to Europe and the United States. The AUSTR explained that Nigeria (not an LDC) and other African countries (both LDC and

non-LDCs) have this through AGOA and questioned Africa's push to extend AGOA-like preferences to countries like Bangladesh that are much larger exporters. She urged Nigeria to review its current positions in-line with its own national interests. Addressing this issue, Director Achinivu stated that agricultural subsidies needed to be reduced as did tariff rates on non-agricultural market access (NAMA) products, and that Nigeria is aligned with the G20. He praised U.S. moves to address agricultural subsidies, but said that the EU, particularly France, was not doing enough. He reiterated that Nigeria would continue to cooperate with the U.S. on WTO issues.

¶23. (SBU) The GON asked if the U.S. was still pursuing a WTO waiver for AGOA and what the status was on a draft bill in Congress that intended to give LDC countries AGOA-like benefits. Regarding the WTO waiver for AGOA countries, USTR reported it is still in the negotiations stage, and China has informally agreed not to oppose the waiver, but some other countries, such as Paraguay, continue to oppose the waiver approval. USTR answered that a draft LDC bill has not been passed and a vote was not expected until early 2008. The AUSTR reported that the African embassies in Washington, D.C. will be consulting with Congress on the bill.

JOINT-COMMUNIQUE - GOOD PROGRESS

¶24. (SBU) In the joint communique issued after the TIFA Council meeting both sides agreed to explore common objectives, including cooperation in the World Trade Organization, commercial issues and trade restrictions, trade capacity building and technical assistance, intellectual property protection and enforcement, export diversification, and infrastructure and other investment issues. The communique urged the GON to continue its efforts to reduce tariffs over time and convert existing import bans to tariff structures.

¶25. (SBU) Both sides will work towards clarification of procedures for temporary import licenses for oil service equipment and other short term remedies as well as a long term solution, to ensure support for petroleum exploration and development. On AGOA, the two sides agreed to focus on specific product areas with export potential for Nigerian review and discussion with USAID West Africa Trade Hub experts. Addressing the current WTO Doha negotiations,

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the U.S. and Nigeria agreed to work towards the successful completion of a broad and balanced final agreement.

¶26. (SBU) The two countries agreed to form a working group to identify the terms and conditions necessary to attract investment in these areas. The U.S. will continue to assist with efforts to develop electric power, including through a seminar for the Nigerian banking community on project financing models. Nigerian officials also expressed interest in discussing a bilateral investment treaty (BIT) and said they would provide comments on the U.S. Model BIT presented at the last Council session.

¶27. (SBU) In the area of intellectual property rights, the two sides agreed on new areas of cooperation, including improving enforcement against piracy and counterfeiting. The U.S. applauded Nigeria's issuance of optical disc regulations. The Nigerian side welcomed comments on these regulations as well as on its draft intellectual property legislation. Nigeria requested information on an IPR recordal system to improve border enforcement.

CONCLUSION

¶28. (SBU) The Council agreed to form a working group to meet quarterly to accelerate its work, and to finalize a work plan for 2008. The AUSTR urged Nigeria to continue to look at the business environment regulations that affected trade - tariffs, import bans, IPR, licensing, and customs reforms. She reaffirmed the USG's commitment to working with Nigeria through the TIFA and other mechanisms to strengthen and diversify U.S.-Nigeria trade and investment.

¶29. (SBU) PS Emuren underscored that the meeting had touched on a lot of issues and that there would be a report from each participating agency. She hoped that the quarterly collaboration would allow Nigeria to learn more and be better informed on the full range of trade and investment issues discussed at the TIFA Council meeting.

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COMMENT

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¶30. (SBU) Overall, the TIFA Council meeting was successful in committing the GON to review areas of friction between the U.S. and Nigeria and creating an ongoing mechanism under the TIFA for accomplishing the work plan. The quarterly consultations will assist the USG in prodding the GON to act on previous commitments and continue a cooperative dialogue. The joint-communique provides a good foundation for that dialogue and was drafted near the end of meeting due to a push from the President's office to have one prior to his trip to the U.S. Previously, MCI had rejected the need for it.

¶31. (SBU) Minister Ugwu's slight participation was unfortunate and PS Emuren being new to MCI limited her ability to play a leading role. Surprisingly, the Ministry of Finance (MINFIN) did not attend the meeting and only offered to meet with the AUSTR to discuss the import bans and customs issues when schedules no longer allowed for a meeting to take place.

SANDERS